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10/708,168	02/12/2004	Binh T. Nguyen	IGT1P105	2167
22434	7590	01/16/2008		
BEYER WEAVER LLP P.O. BOX 70250 OAKLAND, CA 94612-0250			EXAMINER HALL, ARTHUR O	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/708,168

Applicant(s)

NGUYEN ET AL.

Examiner

Arthur O. Hall

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/5/2007.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 12/5/2007 has been acknowledged by the examiner.

***Response to Amendment***

Examiner acknowledges applicant's amendment of claims 1, 23, 37, 54 and 63 in the Response dated 12/3/2007 to Non-final Office Action dated 8/3/2007. Claims 1-63 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicants arguments in the Response dated 12/3/2007 directed to the rejection set forth under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) in the Non-final Office Action dated 8/3/2007 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicants amendments and in view of applicants arguments. However, Examiner deems applicants' arguments that a fingerprint cannot constitute a visual image of a player and that neither Steelberg et al. (US Patent Application Publication 2003/0139190; hereinafter Steelberg) nor Schneier et al. (US Patent 6,264,557; hereinafter Schneier) disclose visual images of a player taken by a cellular phone are unpersuasive in light of evidence disclosed in Steelberg and Schneier as described below.

Examiner acknowledges applicants' submission of replacement drawings directed to Examiners objection of the drawings as being improper for reason that the drawing size did not fit an 8 1/2" x 11" sheet of paper as set forth in the Non-final Office

Action dated 8/3/2007, which obviates the objection to the drawing. Therefore, Examiner withdraws further objection to the drawing.

Examiner acknowledges applicants' amendments of the disclosure of the specification directed to Examiner's objection of the specification with respect to the drawing size issue described above and the trademark capitalization issue as set forth in the Non-final Office Action dated 8/3/2007, which obviate the objection to the specification. Therefore, Examiner withdraws further objection to the specification.

***Claim Rejections - 35 USC § 103***

Examiner incorporates herein by reference the grounds of rejection of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 8/3/2007 because the scope of the claims in the Response dated 12/3/2007 is substantially the same as the scope of the claims examined in the Non-final Office Action dated 8/3/2007 with the exception of certain amended features, and sets forth new grounds of rejection under 35 U.S.C. § 103(a) with respect to amended features as described below because each of the features of applicant's claimed invention as amended continues to be unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6-7, 15-18, 23-27, 32-35, 37-40, 45-48, 50-54 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steelberg in view of Cumbers (US Patent 6,234,900). Figures are described with reference characters where necessary for clarity.

Regarding claims 23 and 37, Steelberg substantially teaches features of the claimed invention as described in the Non-final Office Action dated 8/3/2007.

However, Steelberg does not substantially teach the a second mode of communication obtains personal player information during or immediately prior to the play of a wager-based game at said remote gaming terminal as claimed. Therefore, attention is directed to Cumbers, which teaches that a second communication device is adapted to obtain personal information regarding a specific player at said remote gaming terminal during or immediately prior to the play of a wager-based game at said remote gaming terminal via a second mode of communication (column 5, line 57 to column 6, line 37, Cumbers; an image of a person's face is taken via a digital or video camera while the person is playing the gaming machine and obtaining the image of a person's face before or immediately prior to playing the gaming machine are obvious variants thereof since the camera is configured to function as the person approaches the gaming machine and after the person leaves the gaming machine).

Cumbers suggests that a device that passively identifies certain facial features of a player for the purpose of obtaining data for player tracking so as to allocate acquired points will solve the problem of requiring a player to have their identification card available to be read for awarding points, the problem of allowing a single identification card to be passed around among various players for one player's account and the problem of systems not having the capability to allocate points to unidentified players who later decide to be tracked (column 1, line 55 to column 2, line 26, column 2, lines 57-64 and Fig. 2, Cumbers).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Steelberg in view of the teachings of Cumbers for the purpose of providing the gaming device of Steelberg having a second communication device feature operating via a second mode of communication that is interchangeable with or upgradeable to the second mode of communication features that operate during the play of a game disclosed by Cumbers in order to solve player identification card requirement and abuse as well as player points allocation problems.

Regarding claims 1, 7 and 54, the scope of the claims for the method of operating the system would be inherent with respect to claims 23 and 37 above in view of the structure disclosed by Steelberg and Cumbers since the method is the normal and logical manner by which the system could be employed.

Regarding claims 2-4, 6, 15-18, 24-27, 32-35, 38-40, 45-48, 50-53 and 61, the claims are rejected for the reasons described above and the reasons described in the Non-final Office Action dated 8/3/2007.

Claims 5, 8-14, 19-22, 28-31, 36, 41-44, 49, 55-60 and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steelberg in view of Cumbers, and even further in view of Schneier. Figures are described with reference characters where necessary for clarity.

Regarding claims 21 and 63, Steelberg alone or in combination with Cumbers substantially teaches features of the claimed invention as described above.

However, Steelberg does not substantially teach that a visual image is the face of a body of a player as claimed. Therefore, attention is directed to Cumbers, which teaches as disclosed above that the visual image includes at least the face of the body of a specific player (column 4, line 55 to column 5, line 9, column 5, lines 13-44, column 5, line 57 to column 6, line 37 and Fig. 2, Cumbers).

Regarding claims 11, 19, 20, 30, 36, 43, 49 and 58, Cumbers teaches that the visual image of the player is the face, eye or retina, and other physical features of the player that are taken by a digital or video camera (column 4, line 55 to column 5, line 9 and column 5, lines 13-44, Cumbers; it would have been obvious at the time of

invention to try an implementation in which the camera of Cumbers was integrated into a cell phone since cellular phones at the time of invention utilized standard digital cameras of the type disclosed in Cumbers).

Regarding claims 5, 8-10, 12-14, 22, 28-29, 31, 41-42, 44, 55-57, 59-60 and 62, the claims are rejected for the reasons described above and the reasons described in the Non-final Office Action dated 8/3/2007.

***Response to Arguments***

Applicant's arguments filed in the Response dated 12/3/2007 with respect to Examiners' rejection under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicants amendments, and in view of applicants arguments thereof.

Regarding applicants arguments and amendments concerning claims 1-63 rejected as unpatentable or obvious under 35 U.S.C. § 103(a):

Applicants argue substantially that a fingerprint as described in the Non-final Office Action dated 8/3/2007 is not a visual image of the player. Examiner continues to submit that a fingerprint is a visual image of a player as disclosed by Schneier and supported by Cumbers since a fingerprint is a physical feature of a player that is used for identifying that player, wherein when the fingerprint image is taken it is then a visual



image of the player (See column 3, lines 42-51, column 16, lines 13-33 and Fig. 1, 200, Schneier; See also column 4, line 55 to column 5, line 9 and column 5, lines 13-44, Cumbers)

Applicants argue substantially that neither Steelberg nor Schneier disclose a visual image of a player taken by a camera built into a cellular phone. Examiner continues to submit that the game server of Schneier prompts for a predetermined time, random time or continuous scanning of the image of a player's fingerprint for verification via connection over cellular lines (column 3, lines 42-51, column 16, lines 13-33 and Fig. 1, 200, Schneier; it would have been obvious at the time of invention that cellular lines utilize cellular phones for communication and that the cellular phones are configurable to be equipped with cameras for the purpose of taken pictures or images of a physical feature of a person). Examiner further submits that Cumbers supports Schneier in that a visual image of the player is the face, eye or retina, and other physical features of the player that are taken by a digital or video camera (column 4, line 55 to column 5, line 9 and column 5, lines 13-44, Cumbers; a cellular phone equipped with a digital camera would have been obvious at the time of invention for similar reasons as described for Schneier and above for Cumbers)

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because each of the features of applicant's claimed invention continues to be unpatentable or obvious over the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

B US-6,612,928 B1, Bradford et al.

C US-7,285,048 B2, Karmarkar

D US-6,604,085 B1, Kolls

E US-7,125,335 B2, Rowe

F US-2001/0018660 A1, Sehr

G US-2001/0011680 A1, Soltesz et al.

H US-5,229,764, Matchett et al.

I US-2002/0142844 A1, Kerr

J US-2002/0111213 A1, McEntee et al.

K US-2004/0192438 A1, Wells et al.

L US-6,950,940 B2, Wheeler et al.

M US-6,846,238 B2, Wells.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Application/Control Number:  
10/708,168  
Art Unit: 3714

Page 10

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur O. Hall whose telephone number is (571) 270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:  
10/708,168  
Art Unit: 3714

Page 11

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AH   
1/14/2008

  
Robert E. Pezzuto  
Supervisory Patent Examiner